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**ORIGINAL**

August 14, 2013

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**VIA HAND DELIVERY**

**ACCEPTED/FILED**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**AUG 14 2013**

Federal Communications Commission  
Office of the Secretary

**Re: WC DOCKET NOS. 10-90, 07-135, 05-337, 03-109, GN DOCKET NO. 09-51, CC DOCKET NOS. 01-92, 96-45, WT DOCKET NO. 10-208 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Adak Eagle Enterprises, LLC and Windy City Cellular, LLC - Petition for Reconsideration**

Dear Ms. Dortch:

On behalf of Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”), pursuant to the procedures outlined in the Third Protective Order adopted in the above referenced proceedings, please find enclosed an original and one copy of AEE and WCC’s public version of their Petition for Reconsideration. The [[ ]] symbols denote confidential information. A confidential version is being filed separately with the Secretary’s Office. Additional copies of the confidential version also are being delivered to the Wireline Competition Bureau.

Should you have any questions concerning the foregoing request, please contact the undersigned.

Sincerely,



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Counsel for Adak Eagle Enterprises, LLC and  
Windy City Cellular, LLC

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

**ACCEPTED/FILED**

AUG 14 2013

In the Matter of

Adak Eagle Enterprises, LLC and  
Windy City Cellular, LLC

Petitions for Waiver of Certain High-Cost  
Universal Service Rules

Federal Communications Commission  
Office of the Secretary

WC Docket No. 10-90

WT Docket No. 10-208

To: Chiefs, Wireline Competition Bureau and Wireless Telecommunications Bureau

**PETITION FOR RECONSIDERATION**

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August 14, 2013

## EXECUTIVE SUMMARY

Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”) hereby petition the Wireline Competition Bureau and the Wireless Telecommunications Bureau (collectively, the “Bureaus”) for reconsideration of the *Order*, released July 15, 2013, denying the companies’ Petitions for Waiver. AEE and WCC respectfully request that the Bureaus reconsider their denial of the Petitions because: (1) the companies have taken new steps to further, and even more drastically, reduce costs in the specific areas addressed by the Bureaus in the *Order*; (2) the Bureaus erroneously believed the companies have cash reserves that would allow them to sustain operations through 2014, when, in fact, a significant portion of those funds belong to the Rural Utilities Service (“RUS”) and are now in the process of being returned to RUS; and (3) the Bureaus’ finding that AEE and WCC were provided with adequate transition paths to implement the universal service cuts adopted in the *USF/ICC Transformation Order* is inaccurate. Based on the foregoing reasons, the Bureaus should reconsider the *Order* and grant AEE’s and WCC’s Petitions.

In addition to this Petition for Reconsideration, AEE and WCC also are concurrently filing an Application for Review seeking a reversal of the *Order* on the separate bases that the Bureaus exceeded their authority by: (1) failing to observe the proper standard for granting a waiver as set forth in the *USF/ICC Transformation Order*; (2) violating competitive neutrality, one of the governing principles of universal service; and (3) ignoring the fundamental objectives of the universal service program.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

ACCEPTED/FILED

AUG 14 2013

Federal Communications Commission  
Office of the Secretary

In the Matter of	)	
	)	
Adak Eagle Enterprises, LLC and	)	
Windy City Cellular, LLC	)	WC Docket No. 10-90
	)	
Petitions for Waiver of Certain High-Cost	)	WT Docket No. 10-208
Universal Service Rules	)	

To: Chiefs, Wireline Competition Bureau and Wireless Telecommunications Bureau

**PETITION FOR RECONSIDERATION**

Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”) hereby petition the Wireline Competition Bureau and the Wireless Telecommunications Bureau (collectively, the “Bureaus”) for reconsideration of the *Order*, released July 15, 2013, denying the companies’ Petitions for Waiver (the “Petitions”).<sup>1</sup> AEE and WCC respectfully request that the Bureaus reconsider their denial of the Petitions because: (1) the companies have taken new steps to further, and even more drastically, reduce costs in the specific areas addressed by the Bureaus in the *Order*; (2) the Bureaus erroneously believed the companies have cash reserves that would allow them to sustain operations through 2014, when, in fact, a significant portion of those funds belong to the Rural Utilities Service (“RUS”) and are now in the process of being returned to RUS; and (3) the Bureaus’ finding that AEE and WCC were provided with adequate transition paths to implement the

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<sup>1</sup> See *Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90 and WT Docket No. 10-208, *Order*, DA 13-1578 (rel. July 15, 2013) (“*Order*”); see also *Petition for Waiver of Adak Eagle Enterprises, LLC*, WC Docket No. 10-90, *et al.* (filed May 22, 2012) (“AEE Petition”); *Petition for Waiver of Windy City Cellular, LLC*, WC Docket No. 10-90, *et al.* (filed April 3, 2012) (“WCC Petition”); see also 47 C.F.R. § 1.106.

universal service cuts adopted in the *USF/ICC Transformation Order* is inaccurate.<sup>2</sup> Based on the foregoing reasons, the Bureaus should reconsider the *Order* and grant AEE's and WCC's Petitions.

In addition to this Petition for Reconsideration, AEE and WCC also are concurrently filing an Application for Review seeking a reversal of the *Order* on the separate bases that the Bureaus exceeded their authority by: (1) failing to observe the proper standard for granting a waiver as set forth in the *USF/ICC Transformation Order*; (2) violating competitive neutrality, one of the governing principles of universal service; and (3) ignoring the fundamental objectives of the universal service program.<sup>3</sup>

**I. AEE AND WCC HAVE IMPLEMENTED SIGNIFICANT ADDITIONAL COST REDUCTIONS IN THE AREAS IDENTIFIED BY THE BUREAUS.**

In order to address the Bureaus' concerns, AEE and WCC have implemented significant additional cost-reduction measures in the areas of concern identified by the Bureaus in the *Order*. As discussed in more detail below, the companies have slashed executive compensation levels, reduced other corporate operating expenses, closed WCC's retail store, placed the administrative building on the market for sale, and requested permission from RUS to sell the boat (which had been purchased in order to lay fiber). As a result of these additional reductions, overall costs have already been reduced for 2013 by approximately [[REDACTED]], or [[REDACTED]], compared to the pre-*USF/ICC Transformation Order* operating levels, and the companies anticipate that additional savings will be realized once the boat and administrative building are sold. Moving forward, AEE can operate at [[REDACTED]] of 2011 funding levels, and WCC can sustain operations at [[REDACTED]] of 2011 levels.

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<sup>2</sup> See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*").

<sup>3</sup> See Application for Review of Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, WC Docket No. 10-90, *et al.* (filed August 14, 2013).

**A. Drastic Reduction of Executive Compensation.**

To address the Bureaus' concerns regarding executive compensation, the companies' Chief Executive Officer ("CEO") and Chief Operations Officer ("COO") have voluntarily taken an additional combined salary reduction of more than [[REDACTED]], or [[REDACTED]], from 2012 levels, effective October 1, 2013. This cut is in addition to the [[REDACTED]] reduction in salaries already taken as of March 1, 2013.<sup>4</sup> The cuts result in an annual salary of [[REDACTED]] for the CEO and [[REDACTED]] for the COO. This constitutes a salary reduction of more than [[REDACTED]] compared to 2012 salary levels.

While the companies' executives have implemented this additional salary reduction in order to address concerns identified in the *Order*, the Bureaus' denial of the Petitions based on AEE's and WCC's executive compensation levels being "unreasonable" and "excessive" was nonetheless erroneous.<sup>5</sup> Evidencing the reasonableness of the companies' executive salaries, the Regulatory Commission of Alaska ("RCA") had already accepted the pre-USF/ICC *Transformation Order* salaries without objection. Given that the state regulatory agency had already accepted the previous salary levels, the Bureaus had no basis to second-guess the RCA's judgment on this matter – especially given that the salary data in the record supports the reasonableness of AEE's and WCC's executive salaries.<sup>6</sup>

Contrary to the Bureaus' findings,<sup>7</sup> the companies' prior executive salary levels were not disproportionately high compared to NTCA and Alaska Department of Labor salary ranges. With respect to the NTCA salary data, AEE and WCC calculated their executive salaries based on the

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<sup>4</sup> See *Order*, ¶ 28; see also Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, at 4 (dated Feb. 28, 2013) ("AEE/WCC Feb. 28 Ex Parte").

<sup>5</sup> See *Order*, ¶¶ 23-24.

<sup>6</sup> See *Order*, ¶ 28.

<sup>7</sup> See *Order*, ¶ 26.

average of six NTCA metrics categories: operating revenue, access lines, number of full-time employees, survey region, organization type, and reported union representation. In contrast, the Bureaus selectively cited to specific isolated metrics to support their conclusion that AEE's and WCC's pre-Order executive salaries were disproportionately high.<sup>8</sup> For example, the Bureaus reference the metrics based on number of access lines and operating revenues, but neglect to consider metrics such as survey region, which contain higher salary ranges.<sup>9</sup> Indeed, based on an average of the six NTCA metrics categories the companies used, the previous executive salaries were within a reasonable range, as reflected in multiple filings submitted by AEE and WCC.<sup>10</sup>

Furthermore, when comparing AEE's and WCC's executive salaries to Alaska Department of Labor data, the Bureaus failed to take into account that the salary ranges provided by the Alaska Department of Labor are not specific to the telecommunications industry and reflect salary data from non-specialized industries, as well.<sup>11</sup> As a result, the median salaries and salary ranges reflected in the Alaska Department of Labor data are skewed lower than if the data only contained comparable telecommunications companies operating in the highly specialized industry.

The Bureaus also neglected to take into account that AEE's and WCC's pre-Order executive salaries did not reflect their entire salary history during which the CEO and COO did not take any salary for the first two years of operations. Taking all of the foregoing factors into account, AEE's and WCC's pre-Order executive salaries were already reasonable and in line with salaries for

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<sup>8</sup> See Order, ¶ 28.

<sup>9</sup> See NTCA 2012 Survey of Compensation and Benefits in the Independent Telecommunications Industry at 73, 112; see also Hal Spence, *Alaska: Still Expensive Place to Live*, HOMER NEWS, July 24, 2013, available at <http://homernews.com/homer-news/business/2013-07-24/alaska-still-expensive-place-to-live>.

<sup>10</sup> See, e.g., Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte and Submission of Further Supplemental Information, WC Docket No. 10-90, *et al.*, at 6, Attachment 2 (dated April 12, 2013) ("AEE/WCC April 12 Ex Parte").

<sup>11</sup> See Order, ¶¶ 29-30.



comparable positions. Despite all of this, in order to support a petition for reconsideration and allow the companies to survive, the companies' CEO and COO have voluntarily slashed their salaries even further by an additional combined [[REDACTED]], an overall reduction of more than [[REDACTED]] from 2012 levels. Both the CEO's resulting salary of [[REDACTED]] and COO's resulting salary of [[REDACTED]] fall well within the reasonable salary range compared to NTCA and Alaska Department of Labor salary data.<sup>12</sup>

**B. Further Reduction of AEE's Corporate Operations Expenses.**

AEE has taken significant steps to reduce its operating costs over the past year, and in response to the Bureau's denial *Order*, is cutting costs even further. In a proposal submitted in May, the companies proposed cost reductions totaling at least [[REDACTED]].<sup>13</sup> As explained in previous filings, these cost-cutting measures included dramatically reducing its staff, largely eliminating travel and training expenses, canceling construction of the Clam Lagoon cell site, delaying construction of an essential warehouse, and temporarily reducing critical backhaul redundancy.<sup>14</sup>

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<sup>12</sup> See Exhibit 1 (Salary Comparison Chart). Based on an average of the NTCA metrics categories of operating revenue, access lines, number of full-time employees, survey region, organization type, and reported union representation, AEE's CEO salary is lower than the NTCA mean CEO salary of approximately [[REDACTED]]. AEE's CEO salary is also lower than the Alaska Department of Labor mean salary of [[REDACTED]]. Similarly, based on an average of the same NTCA metrics categories, AEE's COO salary is lower than the NTCA mean for COO positions of approximately [[REDACTED]]. AEE's COO salary is only slightly higher than the Alaska Department of Labor mean salary of [[REDACTED]] and well within the reasonable range as it is significantly lower than the Alaska Department of Labor 90<sup>th</sup> percentile salary of [[REDACTED]]. For purposes of accurate comparison to the NTCA and Alaska Department of Labor salary figures, which reflect only base pay, the vacation payouts and salary amounts allocated to non-regulated entities are not included in the AEE/WCC executive salaries. Also as stated in previous filings, AEE and WCC executives receive no cash bonuses, unlike the majority of executives in the NTCA survey.

<sup>13</sup> Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90, *et al.* (dated May 31, 2013) ("AEE/WCC May 31 Ex Parte").

<sup>14</sup> See AEE/WCC May 31 Ex Parte.

AEE has emphasized throughout the waiver process that, because Adak Island is an inherently high-cost area due to the island's remoteness and extremely challenging conditions, the company can reduce operating costs only so far while continuing to provide comprehensive service in a safe manner. Operating costs on Adak Island will inevitably be higher compared to carriers in other parts of the country, or even in other parts of Alaska. Adak Island is one of the most remote areas in the entire United States. It is located in the vicinity of an active volcano and is in both an earthquake and tsunami zone. It has frequent cyclonic storms with winter squalls producing wind gusts in excess of 100 knots, extensive fog storms in the summer, and an average accumulated snowfall of 100 inches. The island is infested with large Norwegian rats that regularly chew through communications infrastructure (requiring AEE to use expensive armored cable). The island also is saturated with active bombs that make trenching and digging extremely complicated. Supplies and equipment must be shipped in by barge, which is very costly.<sup>15</sup>

Despite these challenges, however, AEE has attempted to identify additional ways to further reduce operating expenses wherever possible. In order to address the Bureaus' concerns in the specific areas addressed in the *Order*,<sup>16</sup> AEE has taken steps to further reduce its payroll expenses. In addition to reducing its original staff of 19 employees down to 10 full-time employees and one part-time janitorial employee, AEE has reduced its five hourly, full-time employees from 40 hours to 32 hours per week.<sup>17</sup> Overall, as a result of the companies' elimination of staff positions, the executives' voluntary salary reductions, and the new reduction in employees' weekly hours, the companies have reduced annual salary expenses by approximately [[REDACTED]] compared to pre-USF/ICC *Transformation Order* levels in 2011.

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<sup>15</sup> See AEE/WCC April 12 Ex Parte at 2, n. 4.

<sup>16</sup> See *Order*, ¶ 31.

<sup>17</sup> While a number of employees have voluntarily resigned, the companies have not rehired these positions in the interest of further reducing costs and addressing the Bureaus' concerns.

**C. Closure of the WCC Retail Store.**

To further reduce costs and address the concerns raised by the Bureaus in the *Order*,<sup>18</sup> WCC has shut down the retail store and eliminated all associated expenses.<sup>19</sup> The companies previously proposed to reduce costs by moving the store to a shared location on Adak Island.<sup>20</sup> The companies had proposed to use that shared location to continue providing free Internet service for residents, and to store routers, chargers, cases and other related items for customers. The companies have emphasized throughout the waiver process that if Commission staff would have told WCC in advance that it would be flash-cutting its funding by 84% overnight, it would not have invested in the store. Given that significant planning and investment was made in order to open the store, and given that continued operational costs would have been relatively minimal, WCC believed that it made fiscal sense to continue operating the store after relocation, and have the company's part-time retail clerk take on additional customer service duties. Because the Bureaus disagreed, the retail store was shut down, effective July 25, 2013.<sup>21</sup>

**D. Sale of the Administrative Building and Relocation of Operations.**

In response to concerns raised by the Bureaus regarding AEE's administrative building, the building has been placed on the market for sale.<sup>22</sup> In addition, AEE is investigating the possibility of combining lease agreements with other communications carriers to house AEE's administrative facilities.<sup>23</sup> Also to address concerns raised by the Bureaus, AEE abandoned plans to purchase the

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<sup>18</sup> See *Order*, ¶¶ 32-35.

<sup>19</sup> See Exhibit 2 (flyer announcing closure of retail store as of July 25, 2013).

<sup>20</sup> See AEE/WCC May 31 Ex Parte at 9.

<sup>21</sup> The closure of the retail store will save WCC approximately [[REDACTED]] for the period from August through December 2013. Going forward, the closure will save WCC approximately [[REDACTED]] per year, but this savings also will reduce AEE's revenue by approximately [[REDACTED]], the amount WCC paid to AEE for telephone service.

<sup>22</sup> See *Order*, ¶¶ 36-37; see also Exhibit 3 (real estate listing for administrative building).

<sup>23</sup> See *Order*, ¶ 37; see also AEE/WCC May 31 Ex Parte at 9.

administrative building from L&A Property, which is owned by AEE's and WCC's CEO, Larry Mayes, and COO, Andilea Weaver.

AEE is taking these steps to address the Bureaus' concerns despite the fact that, as AEE and WCC have repeatedly emphasized, Mr. Mayes and Ms. Weaver do not make a profit from leasing the administrative building in Anchorage to AEE through L&A Property.<sup>24</sup> AEE's monthly lease payment for the building is the same amount as L&A Property's monthly mortgage payment for the property. Moreover, the rent charged to AEE is below market rates, and has never been increased since Mr. Mayes and Ms. Weaver purchased the building in 2007. Indeed, from the time L&A Property purchased the building, it has charged rent significantly lower than the rent advertised for the building by its previous owner at the time of purchase.

As also explained in prior filings, Mr. Mayes and Ms. Weaver initially tried to find a building to rent to house the operations of AEE, but no one would extend them credit to rent a building because AEE did not have credit established when they started the company.<sup>25</sup> As a result, Ms. Weaver and Mr. Mayes used personal funds to purchase the building. Ms. Weaver took money from her 401(k) plan, and Mr. Mayes refinanced his home in order to make it possible for AEE to lease space. RUS reviewed and approved this lease arrangement.

AEE analyzed the cost impact of moving its administrative offices into another leased building in Anchorage instead of leasing its current building from L&A Property. AEE provided an independent third-party appraisal of market rents for comparable buildings.<sup>26</sup> This analysis reflected that the monthly lease payment per rentable square foot paid for AEE's administrative building is below the fair market monthly rent per rentable square foot that could be charged for the building.

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<sup>24</sup> See, e.g., AEE/WCC May 31 Ex Parte at 9.

<sup>25</sup> See AEE/WCC April 12 Ex Parte at 10-11.

<sup>26</sup> See AEE/WCC April 12 Ex Parte, Attachment 3, AEE Administrative Building Rent Comparison.

The analysis also reflected that the current rent per square foot paid by AEE is below the market rent per square foot charged for comparable or inferior buildings in Anchorage.

As the Bureaus are aware, the building was purchased several years before the *USF/ICC Transformation Order* was issued, at a time when growth in customers and in AEE's operations was anticipated. This specific building was chosen with the idea that AEE would be growing over time, with the fishery and other private and government operations expanding, and parallel growth in population. As explained by the companies, even with the now reduced number of employees, AEE and WCC still utilize the space provided in the current administrative building to house not only its staff but also the companies' customer service, IT, accounting, storage of all corporate paperwork, files, servers, and computers, and storage of all equipment that is then shipped to Adak for maintenance and repair operations when needed.<sup>27</sup> As a result, it would have been impractical to sublease space to a third party.

Nevertheless, to address concerns expressed by staff in the *Order*, the building is now up for sale on the open market and will not be purchased by AEE, and the companies will report back to staff regarding their search for alternative arrangements for finding a property to house operations.

#### **E. Vehicles.**

The Bureaus expressed concern regarding expenses associated with the number of vehicles owned by the companies. In total, the companies own four pickup trucks (one 1986 Chevy pickup, one 1990 Ford pickup, and two 2006 Ford pickups), a splicing van, a bucket truck, two snowmobiles, four all-terrain vehicles, and a boat that was purchased to lay fiber under docks (with the express approval of RUS). To address the Bureaus' concerns regarding the boat, AEE has requested permission from RUS to sell that boat.

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<sup>27</sup> See AEE/WCC Feb. 28 Ex Parte at 7.

As the companies explained in previous filings, given the extreme weather and terrain conditions on Adak Island, the remaining vehicles were bought over the years because they were necessary to access facilities, perform maintenance operations, and maintain a minimal level of redundancy in the event a vehicle were to break down – especially given that prior to 2011, there was no mechanic on the island to repair and maintain vehicles, and it is neither quick nor easy to obtain replacement parts. RUS approved these necessary expenditures.<sup>28</sup>

AEE bought the two Ford pickup trucks in 2006 because they were necessary for the harsh climate and slick conditions on Adak Island, particularly given the small number of paved roads. Ms. Weaver and another staff member drove the trucks more than 400 miles to a port so that the vehicles could be transported to Adak Island by barge. The barge only delivers to Adak once a year (if that), so transportation of such equipment has to be carefully planned well in advance. The other trucks acquired by AEE were bought used from contractors in Adak. The splicing van is used to splice cable and hold inventory. The bucket truck is used to install wiring. The 1986 Chevy and 1990 Ford pickup trucks have been used for maintenance and construction. Additionally, the snowmobiles and all-terrain vehicles are essential for performing maintenance at the White Alice site and other facilities that otherwise would be inaccessible due to the extreme terrain and weather, including heavy snowfall during the winter months.

The total annual cost of maintaining these vehicles, including repair and maintenance, fuel, insurance, and shipping costs is approximately [[REDACTED]]. The vehicles were purchased very cheaply, and have been a sensible and cost-effective investment as there is no other regular source of vehicles to rent for use on the island. AEE has not attempted to sell any of the vehicles given their age, minimal resale value, the lack of potential buyers for the vehicles on Adak Island, and the

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<sup>28</sup> See Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte and Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, at 10 (dated Aug. 20, 2012).

expense of shipping these vehicles back to the mainland for sale. If an opportunity to sell any vehicles on the island were to arise, however, AEE would explore the opportunity.

**II. THE BUREAU MISTAKENLY BELIEVED THAT CERTAIN FUNDS REFLECTED ON FINANCIAL REPORTS REPRESENT CASH RESERVES WHEN, IN FACT, A SIGNIFICANT PORTION OF THE FUNDS BELONG TO RUS.**

The Bureaus mistakenly concluded that, with the additional six months of interim support granted in the *Order*, AEE and WCC would not only have “sufficient resources to continue operations in the intermediate term” but also through the end of 2014 based on an erroneous belief that AEE and WCC have significant cash reserves.<sup>29</sup> In particular, the Bureaus state that “[t]he companies’ audited 2012 Consolidated Balance Sheets show [[REDACTED]

...”<sup>30</sup>

The Bureaus' finding is inaccurate. This is because [[REDACTED]] of those funds belong to – and are now in the process of being repaid to – RUS. RUS had loaned the funds to AEE to construct the warehouse that is needed to house equipment, vehicles, and maintenance operations in a heated facility protected from the severe weather conditions on Adak Island. Due to the uncertainty created by the pendency of the waiver requests, AEE postponed the construction of this warehouse and set aside those funds for repayment to RUS.<sup>31</sup> Because of the denial *Order*, AEE is now coordinating with RUS to repay these funds.<sup>32</sup>

<sup>29</sup> *Order*, ¶ 49.

<sup>30</sup> *Order* at n. 161.

<sup>31</sup> See AEE/WCC May 31 Ex Parte at 10.

<sup>32</sup> See Exhibit 4 (Letter from Peter Aimable, Director, Northern Division, Telecommunications Program, RUS, to Larry D. Mayes, President, AEE (dated July 25, 2013)).

When these funds are subtracted from AEE's and WCC's consolidated financials, the companies will have an ending cash balance of approximately [[REDACTED]]. This amount reflects a consolidated total, however, which includes non-regulated companies, including AEE's broadband affiliate. As Bureau staff acknowledged in previous meetings, absent grant of the companies' waiver requests, AEE will be forced to default on its RUS loan. Without the requested relief, both AEE and WCC will be forced to discontinue operations.

### **III. THE BUREAUS' FINDING THAT AEE AND WCC WERE PROVIDED ADEQUATE TRANSITION PATHS TO IMPLEMENT THE USF CUTS IS INACCURATE.**

With respect to WCC, the Bureaus correctly acknowledge that WCC "experienced an immediate reduction in high-cost support when the *USF/ICC Transformation Order* took effect."<sup>33</sup> An "immediate reduction" is the equivalent of a "flash cut." Nevertheless, the Bureaus assert that the Wireless Telecommunications Bureau sufficiently moderated the immediacy of the cut by providing interim relief to WCC.<sup>34</sup> The interim relief provided to WCC, however, began in June 2012 and was not provided retroactively to January 1, 2012, when the flash cut went into effect.<sup>35</sup> As a result, the companies still were hit with an 84% flash cut to their funding overnight, and which lasted for six months. Moreover, WCC was provided interim relief at only 50% of 2011 levels beginning in June 2012. Thus, despite the provision of limited interim relief, the 84% cut in WCC's funding from January 2012 to June 2012, followed by the 50% cut in funding from June 2012 through the present, still constitutes the type of "flash cut" that the Commission repeatedly

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<sup>33</sup> *Order*, ¶ 46.

<sup>34</sup> See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, 27 FCC Rcd 6224 (rel. June 12, 2012) ("June 12, 2012 Interim Relief Order"); See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, 27 FCC Rcd 15836 (rel. Dec. 20, 2012) ("Dec. 20, 2012 Interim Relief Order"); *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, DA 13-1384 (rel. June 14, 2013).

<sup>35</sup> See June 12, 2012 Interim Relief Order, ¶ 16.



promised would not be implemented.<sup>36</sup> As a result, WCC has not been given the reasonable transition period and predictability promised by the Commission.

With respect to AEE, the Bureaus note that the Commission's Notice of Proposed Rulemaking contemplated the adoption of the \$250 per month cap on total support per line for all companies.<sup>37</sup> The Bureaus fail to acknowledge, however, that the NPRM also expressly acknowledged that unique circumstances in "very high-cost areas" might justify higher levels of support and asked whether there should be an exception for carriers serving Tribal lands.<sup>38</sup> The NPRM expressly gave AEE reason to believe that the Commission would provide AEE – a company operating in exactly the type of unique circumstances that were contemplated in the NPRM – an adequate transition path to implement any adopted cuts.

Following release of the *USF/ICC Transformation Order*, less than eight months passed before the initial phase of cuts were implemented for AEE beginning July 1, 2012. Although AEE was provided with limited interim relief, that relief was not provided retroactively to the date the initial cut was implemented.<sup>39</sup> This timeline is in direct conflict with the Commission's repeated assurances that companies would be provided with reasonable transition periods and the predictability necessary to plan their long-term investments.<sup>40</sup>

Furthermore, the Bureaus failed to consider the Commission's acknowledgment in the *USF/ICC Transformation Order* that "[c]arriers serving remote parts of Alaska . . . should have a slower transition path in order to preserve newly initiated services and facilitate additional

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<sup>36</sup> See AEE/WCC April 12 Ex Parte at 3-4.

<sup>37</sup> See Order, ¶ 46 (*citing Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, ¶ 208 (rel. Feb. 9, 2011) ("NPRM")).

<sup>38</sup> See NPRM, ¶¶ 210-211.

<sup>39</sup> See Dec. 20, 2012 Interim Relief Order.

<sup>40</sup> See AEE/WCC April 12 Ex Parte at 3-4.

investment in still unserved and underserved areas during the national transition to the Mobility Funds.”<sup>41</sup> Consistent with this acknowledgment, a more gradual transition timeline is appropriate for AEE and WCC, relatively new companies that have made recent investments to provide newly initiated services to otherwise unserved areas of remote Alaska.

#### IV. CONCLUSION.

AEE and WCC respectfully request that the Bureaus reconsider their denial of the Petitions because: (1) the companies have taken new steps to further, and even more drastically, reduce costs in the specific areas addressed by the Bureaus in the *Order*; (2) the Bureaus erroneously believed the companies have cash reserves that would allow them to sustain operations through 2014, when, in fact, a significant portion of those funds belong to RUS and are now in the process of being returned to RUS; and (3) the Bureaus’ finding that AEE and WCC were provided with adequate transition paths to implement the universal service cuts adopted in the *USF/ICC Transformation Order* is inaccurate. Based on the foregoing reasons, the Bureaus should reconsider the *Order* and grant

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<sup>41</sup> *USF/ICC Transformation Order*, ¶ 529 (“...[C]arriers serving remote parts of Alaska, including Alaska Native villages, should have a slower transition path in order to preserve newly initiated services and facilitate additional investment in still unserved and underserved areas during the national transition to the Mobility Funds. Over 50 remote communities in Alaska have no access to mobile voice service today, and many remote Alaskan communities have access to only 2G services. While carriers serving other parts of Alaska will be subject to the national five-year transition period, we are convinced a more gradual approach is warranted for carriers in remote parts of Alaska. Specifically, in lifting the Covered Locations exception, we delay the beginning of the five-year transition period for a two-year period for remote areas of Alaska . . . During this two-year period, we establish an interim cap for remote areas of Alaska for high-cost support for competitive ETCs, which balances the need to control the growth in support to competitive ETCs in uncapped areas and the need to provide a more gradual transition for the very remote and very high-cost areas in Alaska to reflect the special circumstances carriers and consumers face in those communities.”).

AEE's and WCC's Petitions so that the companies can continue providing essential services to consumers on Adak Island in accordance with the fundamental objectives of universal service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Monica S. Desai", written over a horizontal line.

Monica S. Desai  
Patton Boggs, LLP  
2550 M Street, NW  
Washington, DC 20037  
(202) 457-6000  
*Counsel to Adak Eagle Enterprises, LLC  
and Windy City Cellular, LLC*

August 14, 2013

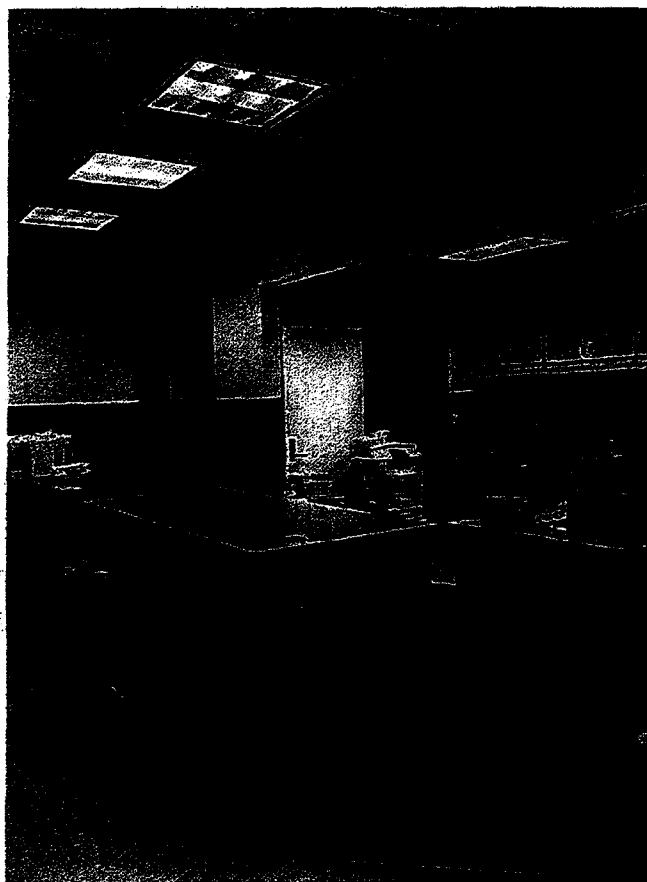
**Exhibit 1**  
**Salary Comparison Chart**

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**Exhibit 2**

Flyer Announcing Closure of WCC Retail Store



**WINDY CITY CELLULAR  
IS SADLY ANNOUNCING THE  
CLOSURE OF THEIR RETAIL  
STORE AS OF JULY 25, 2013**

**We will continue to provide Customer  
Service through the following numbers:**

**611 from your landline**

**or 907-222-0844**

**or 1-888-328-4222 (toll free)**

**Our hours are Monday thru Thursday, 7 AM – 4 PM Adak time.**

**THANK YOU TO ALL OUR CUSTOMERS! WE HAVE  
APPRECIATED YOUR LOYAL PATRONAGE.**

### **Exhibit 3**

## **Administrative Building Real Estate Listing**



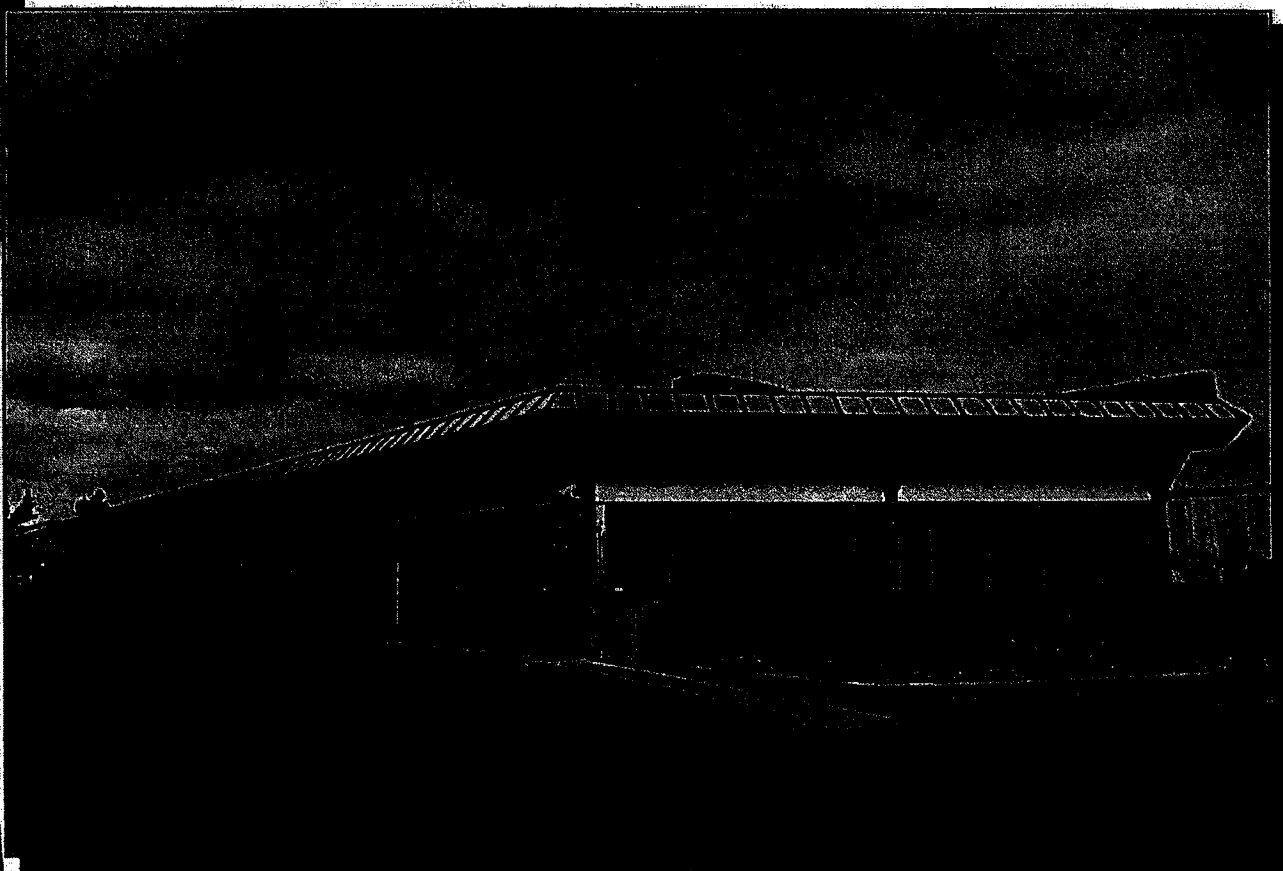
# Ravenwood Real Estate

For Sale

1410 Rudakof Circle

Anchorage, Alaska

\$1,100,000



**Bob Martin, CCIM**

Broker  
Ravenwood Real Estate  
907-229-8681

bob@ravenwoodrealestate.com  
10520 Old Eagle River Road  
Eagle River, Alaska 99577-8040  
(907) 694-9555

**Exhibit 4**  
**Letter from RUS**

[[

REDACTED FOR PUBLIC INSPECTION

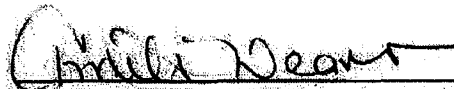
**Exhibit 5**  
**Declaration of Andilea Weaver**

**DECLARATION OF ANDILEA WEAVER**  
**ADAK EAGLE ENTERPRISES, LLC AND WINDY CITY CELLULAR, LLC**

I, Andilea Weaver, declare the following is true and correct to the best of my knowledge and belief:

I am the Chief Operations Officer of Adak Eagle Enterprises, LLC and Windy City Cellular, LLC. I have reviewed the Petition for Reconsideration and attachments and attest, under penalty of perjury, that the facts contained therein are known to me and are accurate.

Executed on this 14th day of August 2013.

A handwritten signature in dark ink, appearing to read "Andilea Weaver", is written over a horizontal line.

Andilea Weaver  
Chief Operations Officer  
Adak Eagle Enterprises, LLC and  
Windy City Cellular, LLC